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E.O.: 12958: N/A

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SUBJECT: UKRAINE: PRESIDENT VETOES FLAWED CUSTOMS TARIFF  
LAW

REFS: A) KYIV 1077  
B) KYIV 1182

11. On June 20, President Viktor Yushchenko vetoed a bill amending the Law "On the Customs Tariff of Ukraine," which Ukraine's Rada (parliament) had adopted on June 3. While the original draft law was meant to lower Ukraine's tariff rates in line with commitments made during WTO accession negotiations, the version of the law that passed would have delayed tariff reductions until January 1, 2009 for a sizeable list of goods, including meat and poultry, cocoa powder and chocolate, wines, and automobiles (ref A).

12. The bill now returns to the Rada, which would have to muster 300 votes in order to override the Presidential veto. (Note: While this draft law was still working its way through the legislative process, the Tymoshenko government had issued instructions to the State Customs Service to apply the lowered tariff rates from May 16 -- the date of Ukraine's WTO accession -- regardless of the Rada's actions. Those instructions will continue to govern tariff collection until a new law comes into effect. End Note.)

13. In his explanatory note to the Rada, President Yushchenko argued that the April ratification of the protocol of accession dictated that tariffs for all products must be lowered from the date of accession, and that such an international agreement takes precedence over domestic legislation. Likely referring to a joint letter sent on June 13 by the Ambassador and other interested Embassies in Kyiv, Yushchenko also noted, "I would like to emphasize that the EU, Canada, Norway, the U.S., Japan, and a number of other WTO-member countries have already expressed their concern with the possibility of a violation of undertaken commitments." The President's note recommended that the Rada amend the bill in order to eliminate all delays in tariff reductions.

Comment: Veto Override Possible, but not Assured  
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14. Although 367 MPs, well over the 300 required for a veto override, voted in favor of the bill originally, an override is not certain. Seventy-one of the 72 MPs from President Yushchenko's Our Ukraine - People's Self-Defense bloc had voted in favor and may now have to reconsider their vote given the President's strong opposition. In addition, current political instability has all but shut

down the Rada (ref B), making it quite possible that a vote will not take place anytime soon. Only one more plenary session, to be held July 8-11, remains before the Rada's long summer holiday. Although customs tariff collection is currently operating under a legally unclear mechanism (an unpublished letter from the PM to the head of Customs), and is subject to the political whims of the GOU, the situation remains more favorable than if the President had signed the law and brought back the higher, pre-WTO tariff rates for those goods covered by the deferral of tariff reductions to January 2009. End Comment.

TAYLOR